

# **2013 DRAFTING REQUEST**

## **Bill**

Received:	<b>9/24/2012</b>	Received By:	<b>agary</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>André Jacque (608) 266-9870</b>	By/Representing:	<b>Michael Murphy</b>
May Contact:		Drafter:	<b>agary</b>
Subject:	<b>Beverages</b>	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**  
 Requester's email: **Rep.Jacque@legis.wi.gov**  
 Carbon copy (CC) to:

## **Pre Topic:**

No specific pre topic given

## **Topic:**

Permitting or failing to take action against underage consumption of alcohol on premises owned by adult or under adult's control

## **Instructions:**

Redraft of 2011 LRB-0250

## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 9/25/2012	evinz 10/1/2012		_____			
/1			jmurphy 10/1/2012	_____	srose 10/1/2012	lparisi 2/25/2013	

FE Sent For:

<END>

*Not  
needed*

## 2013 DRAFTING REQUEST

### Bill

Received: 9/24/2012 Received By: agary  
Wanted: As time permits Companion to LRB:  
For: Andre Jacque (608) 266-9870 By/Representing: Michael Murphy  
May Contact: Drafter: agary  
Subject: Beverages Addl. Drafters:  
Extra Copies:

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Carbon copy (CC) to:

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/?	agary 9/25/2012	evinz 10/1/2012		_____			
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Wanted: As time permits

Companion to LRB:

For: Andre Jacque (608) 266-9870

By/Representing: Michael Murphy

May Contact:

Drafter: agary

Subject: Beverages

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Extra Copies:

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Carbon copy (CC) to:

## Pre Topic:

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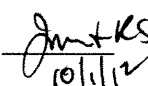
## Topic:

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## Instructions:

Redraft of 2011 LRB-0250

## Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/2	agary	1/1 rev 10/1/12 1/1 SAC 10/1/12		 10/1/12			

FE Sent For:

<END>



State of Wisconsin  
2011 - 2012 LEGISLATURE

3 4

in  
9/25



LRB-025011-0136/1

ARG:td:rs

Leev: SAC

KMNR

D-Note

2011 <sup>3</sup> ASSEMBLY BILL 650 <sup>2</sup>

March 2, 2012 - Introduced by Representatives JACQUE, BERNARD, SCHABER, SPANBAUER, BERCEAU, JORGENSEN, KERKMAN, A. OTT and STROEBEL. Referred to Committee on Criminal Justice and Corrections.

SAV/  
xref/v

- 1 AN ACT <sup>regen</sup> *to amend* 125.07 (1) (a) 3. of the statutes; **relating to:** the prohibition
- 2 against adults knowingly permitting or failing to take action to prevent the
- 3 illegal consumption of alcohol beverages by underage persons.

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***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, a person who has not reached the legal drinking age of 21 years (underage person), and who is not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age, may not knowingly possess or consume alcohol beverages. Current law prohibits an adult from knowingly permitting or failing to take action to prevent the illegal consumption of alcohol beverages by an underage person on "premises" owned by the adult or under the adult's control. "Premises" is defined as the area described in a license or permit for the sale of alcohol beverages.

This bill prohibits an adult from knowingly permitting or failing to take action to prevent the illegal consumption of alcohol beverages by an underage person on property owned and occupied by the adult or occupied by the adult and under the adult's control. This prohibition applies regardless of whether the property is covered by an alcohol beverages license or permit.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

# ASSEMBLY BILL 650

**SECTION 1.** 125.07 (1) (a) 3. of the statutes is amended to read:

125.07 (1) (a) 3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on property, including any premises, owned and occupied by the adult or occupied by the adult and under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

**(END)**

## D-Note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0136/1dn

ARG.....

- date -

Leev f sac

ATTN: Michael Murphy

As discussed in connection with 2011 AB-650, this draft provides a clear meaning to a statutory provision that has been subject to differing court interpretations. The language in s. 125.07 (1) (a) 3., stats., has created much confusion because s. 125.02 (14m), stats., defines the term "premises" in a way that seems to undermine the apparent intent of s. 125.07 (1) (a) 3., stats. Because premises is defined as "the area described in a license or permit," s. 125.02 (14m), stats., some circuit courts and courts of appeal (in unpublished decisions) have found that s. 125.07 (1) (a) 3., stats., applies only on licensed premises. However, the issue was flagged by the Wisconsin Supreme Court in *Nichols v. Progressive Northern Insurance Co.*, 2008 WI 20, 308 Wis. 2d 17, in which Chief Justice Abrahamson was troubled enough by the court of appeals' interpretation of s. 125.07 (1) (a) 3., stats., that she wrote in a concurrence to "express [her] reservations" about the court of appeals' analysis in its unpublished decision. *Id.* ¶ 54 (Abrahamson, C.J., concurring). The court of appeals gave a literal reading to ss. 125.02 (14) and 125.07 (1) (a) 3., stats., to conclude that a violation can occur only on a retailer's licensed premises. The concurrence states that this literal reading leads to a puzzling result and that the term "premises" in s. 125.07 (1) (a) 3., stats., is intended to have its lay meaning of "property," not its defined meaning of a retailer's establishment. *Id.* ¶¶ 55, 60 (Abrahamson, C.J., concurring). This concurrence was supported by three votes, with the other four justices declining to address the issue. A recent case suggests that the concurrence in *Nichols* may ultimately become the position of the court. In *Wisconsin Dolls, LLC v. Town of Dell Prairie*, 2012 WI 76, in a unanimous opinion, the court stated: "In determining what 'premises' means in Chapter 125, we are expected to look at the context in which the term is used throughout the chapter." *Id.* ¶ 30. This suggests the court will look beyond the statutory definition in appropriate circumstances. *AA*

Aaron R. Gary  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0136/1dn  
ARG:eev&sac:jm

October 1, 2012

ATTN: Michael Murphy

As discussed in connection with 2011 AB-650, this draft provides a clear meaning to a statutory provision that has been subject to differing court interpretations. The language in s. 125.07 (1) (a) 3., stats., has created much confusion because s. 125.02 (14m), stats., defines the term "premises" in a way that seems to undermine the apparent intent of s. 125.07 (1) (a) 3., stats. Because premises is defined as "the area described in a license or permit," s. 125.02 (14m), stats., some circuit courts and courts of appeal (in unpublished decisions) have found that s. 125.07 (1) (a) 3., stats., applies only on licensed premises. However, the issue was flagged by the Wisconsin Supreme Court in *Nichols v. Progressive Northern Insurance Co.*, 2008 WI 20, 308 Wis. 2d 17, in which Chief Justice Abrahamson was troubled enough by the court of appeals' interpretation of s. 125.07 (1) (a) 3., stats., that she wrote in a concurrence to "express [her] reservations" about the court of appeals' analysis in its unpublished decision. *Id.* ¶ 54 (Abrahamson, C.J., concurring). The court of appeals gave a literal reading to ss. 125.02 (14m) and 125.07 (1) (a) 3., stats., to conclude that a violation can occur only on a retailer's licensed premises. The concurrence states that this literal reading leads to a puzzling result and that the term "premises" in s. 125.07 (1) (a) 3., stats., is intended to have its lay meaning of "property," not its defined meaning of a retailer's establishment. *Id.* ¶¶ 58, 60 (Abrahamson, C.J., concurring). This concurrence was supported by three votes, with the other four justices declining to address the issue. A recent case suggests that the concurrence in *Nichols* may ultimately become the position of the court. In *Wisconsin Dolls, LLC v. Town of Dell Prairie*, 2012 WI 76, in a unanimous opinion, the court stated: "In determining what 'premises' means in Chapter 125, we are expected to look at the context in which the term is used throughout the chapter." *Id.* ¶ 30. This suggests the court will look beyond the statutory definition in appropriate circumstances.

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**Parisi, Lori**

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**From:** Julian, Jamie  
**Sent:** Monday, February 25, 2013 12:24 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -0136/1 Topic: Permitting or failing to take action against underage consumption of alcohol on premises owned by adult or under adult's control

Jamie Julian – 266-9870

Please Jacket LRB -0136/1 for the ASSEMBLY.